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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DANIEL OWEN HILL
4690 Capitola Road, #10
Capitola, CA 95010

Physical Therapist Assistant Approval
No. AT_2023

Case No. 1D 2000 62703

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about August 3, 1989, the Physical Therapy Board of California issued Physical Therapist Assistant Approval No. AT_2023 to Daniel Owen Hill (Respondent). The Physical Therapist Assistant Approval No. AT-2023 expired on December 31, 2000, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), under the authority of the following sections of the Business and Professions Code (Code).

Section 2  of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

4. Section 490 of the Code states: 

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of

the Penal Code.”

Section 2  of the Code states:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:


- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.
- (f) Habitual intemperance.
- (g) Addiction to the excessive use of any habit-forming drug.
- (h) Gross negligence in his or her practice as a physical therapist.
- (i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.
- (j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.

(m) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood_borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood_borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Dental Examiners of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood_borne infectious diseases.”

Section 125.3 of the Code  provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5. Section 118 of the Code states in pertinent part:

. . . “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

“(c) As used in this section, ‘board’ includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes ‘certificate,’ ‘registration,’ and ‘permit.’”

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime Substantially Related)

[Bus. & Prof. Code Sections 490 and 2660 (d)]



6. Respondent is subject to disciplinary action under sections 490 and 2660(d) of the Code, in that Respondent was convicted of violating Penal Code section 243(e), Battery of a Spouse/Co-habitant, a crime that is substantially related to the qualifications, functions or duties of a Physical Therapist. The circumstances are as follows:

7. On or about May 9, 1999, Respondent assaulted his then-girlfriend, Christine McNeil, in their residence, using force and violence on her person. On or about June 17, 1999, Respondent pled *Nolo Contendere* to violating Penal Code section 243(e) relative to his battery of Ms. McNeil and was sentenced to sixty (60) days in jail and three (3) years’ probation.

SECOND CAUSE FOR DISCIPLINE
(Conviction of a Crime Substantially Related)

Bus. & Prof. Code Sections 490 and 2660 (d)]



8. Respondent is further subject to disciplinary action under sections 490 and 2660(d) of the Code, in that Respondent was convicted of

violating Vehicle Code section 23152(b), driving with blood-alcohol in excess of .08, a crime substantially related to the qualifications, functions, or duties of a Physical Therapist. The circumstances are as follows:

9. On or about April 13, 2000, Respondent was stopped in Santa Cruz, California, by Santa Cruz County Sheriff's Deputy Kerr for failure to wear a seatbelt while driving. Observing that Respondent showed signs of intoxication, Deputy Kerr requested that a California Highway Patrol (CHP) unit be dispatched to the scene to conduct a Driving Under the Influence (DUI) investigation of Respondent. CHP Officer K. Domby arrived on the scene at or about 0050 hours. Based on Deputy Kerr's reported observations, Officer Domby performed field sobriety tests on Respondent, who failed the tests. Officer Domby placed Respondent under arrest and transported him to the Santa Cruz County jail. At the jail, Respondent agreed to take a breath-analysis test for blood alcohol, which revealed a blood alcohol content of .16%, thereby placing Respondent in violation of the Vehicle Code section 23152(b). On June 23, 2000, Respondent pled "No Contest" to the charge in Santa Cruz County Superior Court. Respondent was sentenced to twenty (20) days in jail, fines and/or fees of \$1500, and enrollment in a first-time offender DUI program. Respondent subsequently failed to comply with his terms of sentencing.

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THIRD CAUSE FOR DISCIPLINE
(Unlawful Use of Alcoholic Beverages)

[Bus. & Prof. Code Section 2239]

13. Complainant re-alleges paragraph 12, above, and incorporates it by reference as if fully set forth at this point.

14. Respondent is subject to discipline under section 2239 of the Code, in that respondent consumed alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to himself, or to another person or persons, or to the public.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist Assistant Approval No. AT_2023, issued to Daniel Owen Hill;
2. Ordering Daniel Owen Hill to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: 07/15/02.

Original Signed By

STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California

Complainant